

**REMARKS**

**I. Claim Amendments**

Claims 1-6, 9, 10 and 13-16 are pending in the application.

Claim 1 has been amended to explicitly recite that the oleaginous seed is added *directly* to a reactor in step b), and that the triglyceride-rich oleaginous seed is *not subjected to an oil-extraction step prior to the transesterification reaction of step (e)*. These amendments are supported throughout the specification, particularly at page 3, lines 22-25; page 4, lines 13-16; page 6, lines 29-33; and in the Example at pages 7 and 8.

Minor editorial amendments have also been made to claim 1; these amendments should not change the scope of the claims.

No new matter has been added, and Applicants respectfully request entry of these amendments to the claims.

**II. Response to Objections to the Specification**

At pages 2 and 3 of the Office Action, the Amendment filed September 26, 2005, is objected to under 35 U.S.C. § 132(a) for allegedly introducing new matter into the disclosure.

Specifically, the Examiner indicates that the following amendments to the specification are not supported by the original disclosure:

*(i) Paragraph starting at page 6, line 9*

The Examiner states that there is no support for replacing “ethanol” with “alcohol” in the paragraph beginning at line 9 on page 6 of the specification. The Examiner also states that there is no support for adding the sentence “The neutralized ester corresponds to biodiesel fuel” in the same paragraph. Further, the Examiner states that the newly added word “distillating” appears to misspelled and should probably be replaced with the word “distilling.”

In response, Applicants note that the “ethanol” cited by the Examiner apparently refers to the “condensed alcohol” noted in the sentence immediately following the amended sentence. In addition, the “ethanol” is described as “anhydrous alcohol” in the prior paragraph. Further, the specification indicates at page 4, lines 28-30 that not only ethanol but “an alcohol” in general can be used in the present invention. Therefore, the word “ethanol” cited by the Examiner was clearly used in the original specification in error, and should be replaced with the word “alcohol.”

With regard to the added sentence, Applicants note that the Example at pages 7 and 8 of the specification indicates that the neutralized esters correspond to biodiesel fuel. In particular, the neutralized esters shown in Table 1 are referred to at page 8, line 15 as “the biodiesel product of the invention.” Thus, the sentence “The neutralized ester corresponds to biodiesel fuel” is supported by the specification as filed.

Finally, Applicants have replaced the word “distillating” with the word “distilling” as suggested by the Examiner.

*(i) Paragraph starting at page 6, line 19*

The Examiner states that there is no support for replacing the phrase “lower than 20 mm” with the phrase “up to 20 mesh Tyler,” for adding the word “fine” to modify the previously existing “fraction,” or for replacing the word “ethanol” with the word “alcohol” in the paragraph beginning at line 19 on page 6 of the specification.

In response, Applicants submit that a person of ordinary skill in the art would have known that particles of “up to 20 mesh Tyler” are particles with diameter smaller than 0.841mm. Thus, particles of “up to 20 mesh Tyler” are much smaller than 20mm. Further, in the Example the “finer fraction” is referred to as having a granulometry of lower than 20 mesh Tyler (see page 8, line 1). Accordingly, a person of ordinary skill in the art would have recognized that “lower than 20mm” in the paragraph starting at page 6, line 19 was an editorial error and should be corrected to “lower than 20 mesh Tyler” or “up to 20 mesh Tyler.”

With regard to the term “fine” as used to modify the term “fraction,” Applicants note that the fraction at issue is referred to in the previous sentence as having “the finest solids of granulometry.” Also, as noted above, the fraction is described in the Example as the “finer fraction.” Thus, Applicants submit that the amendment is editorial in nature and does not introduce new matter.

As to replacing “ethanol” with “alcohol,” Applicants have canceled this amendment by changing the word “alcohol” back to “ethanol” in this paragraph.

In view of the above arguments and amendments to the specification, Applicants respectfully request reconsideration and withdrawal of these objections.

**III. Response to Claim Rejections Under 35 U.S.C. § 103**

At pages 3 and 4 of the Office Action, the obviousness rejections set forth in the prior Office Action dated June 27, 2005 are maintained for reasons already of record in the prior Office Action.

In particular, claims 1, 2, 4, 6, and 13-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stidham et al. in view of Bradin, Drouillard et al., and Saam; claims 2 and 3 are rejected under § 103(a) as being unpatentable over Stidham in view of Bradin, Drouillard, Saam, and Lidgren; claim 5 is rejected under § 103(a) as being unpatentable over Stidham in view of Bradin, Drouillard, Saam, and Thames et al.; and claims 9-12 are rejected under § 103(a) as being unpatentable over Stidham in view of Bradin, Drouillard, Saam, Buchanan, and Anderson.

In the Amendment filed September 26, 2005 in the present application, Applicants explained that the process described and claimed in the present application is fundamentally different from the process set forth in Stidham. In particular, Applicants pointed out that whereas in the present process the seeds are fed directly into a reactor where they are mixed with anhydrous alcohol and catalyst for transesterification, thus avoiding an oil extraction step, Stidham describes a process including a step of pre-processing soybean seeds to extract the oil

before the transesterification step. Applicants also noted that the secondary references do not cure the deficiencies of Stidham.

In response to Applicants' arguments, the Examiner contends that the present claims do not recite the alleged patentably distinguishable feature over Stidham. In addition, the Examiner indicates that the transitional phrase "comprises" is open ended and thus does not exclude additional, unrecited elements or method steps, such as an oil-extraction step.

In response, Applicants have amended claim 1 to clarify that the present invention does not encompass an oil extraction step prior to the transesterification step. Applicants submit that, for at least the reasons set forth in the prior Amendment, the references do not teach or suggest this feature of the present invention.

Accordingly, the present amendment should be sufficient to overcome this rejection, and Applicants respectfully request reconsideration and withdrawal of the rejection.

#### **IV. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.116  
U.S. Appln. No.: 10/621,569

Atty. Docket No. Q76639

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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